

which the product is being shipped. For example, semiconductor manufacturing equipment would be of little use in a country without an electronics industry.

4. The customer has little or no business background.

5. The customer is willing to pay cash for a very expensive item when the terms of the sale call for financing.

6. The customer is unfamiliar with the product's performance characteristics but still wants the product.

7. Routine installation, training or maintenance services are declined by the customer.

8. Delivery dates are vague, or deliveries are planned for out-of-the-way destinations.

9. A freight forwarding firm is listed as the product's final destination.

10. The shipping route is abnormal for the product and destination.

11. Packaging is inconsistent with the stated method of shipment or destination.

12. When questioned, the buyer is evasive or unclear about whether the purchased product is for domestic use, export or reexport.

[61 FR 12740, Mar. 25, 1996. Redesignated and amended at 62 FR 25453, 25456, May 9, 1997]

PART 734—SCOPE OF THE EXPORT ADMINISTRATION REGULATIONS

Sec.

734.1 Introduction.

734.2 Important EAR terms and principles.

734.3 Items subject to the EAR.

734.4 *De minimis* U.S. content.

734.5 Activities of U.S. and foreign persons subject to the EAR.

734.6 Assistance available from BIS for determining licensing and other requirements.

734.7 Published information and software.

734.8 Information resulting from fundamental research.

734.9 Educational information.

734.10 Patent applications.

734.11 Government-sponsored research covered by contract controls.

734.12 Effect on foreign laws and regulations.

SUPPLEMENT NO. 1 TO PART 734—QUESTIONS AND ANSWERS—TECHNOLOGY AND SOFTWARE SUBJECT TO THE EAR

SUPPLEMENT NO. 2 TO PART 734—CALCULATION OF VALUES FOR *De Minimis* RULES

AUTHORITY: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp. p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004); Notice of November 4, 2004, 69 FR 64637 (November 8, 2004).

SOURCE: 61 FR 12746, Mar. 25, 1996, unless otherwise noted.

§ 734.1 Introduction.

(a) In this part, references to the Export Administration Regulations (EAR) are references to 15 CFR chapter VII, subchapter C. This part describes the scope of the Export Administration Regulations (EAR) and explains certain key terms and principles used in the EAR. This part provides the rules you need to use to determine whether items and activities are subject to the EAR. This part is the first step in determining your obligations under the EAR. If neither your item nor your activity is subject to the EAR, then you do not have any obligations under the EAR and you do not need to review other parts of the EAR. If you already know that your item or activity is subject to the EAR, you do not need to review this part and you can go on to review other parts of the EAR to determine your obligations. This part also describes certain key terms and principles used in the EAR. Specifically, it includes the following terms: "subject to the EAR," "items subject to the EAR," "export," and "reexport." These and other terms are also included in part 772 of the EAR, Definitions of Terms, and you should consult part 772 of the EAR for the meaning of terms used in the EAR. Finally, this part makes clear that compliance with the EAR does not relieve any obligations imposed under foreign laws.

(b) This part does not address any of the provisions set forth in part 760 of the EAR, Restrictive Trade Practices or Boycotts.

(c) This part does not define the scope of legal authority to regulate exports, including reexports, or activities found in the Export Administration Act and other statutes. What this part does do is set forth the extent to which such legal authority has been exercised through the EAR.

[61 FR 12746, Mar. 25, 1996, as amended at 69 FR 5690, Feb. 6, 2004]

§ 734.2 Important EAR terms and principles.

(a) *Subject to the EAR—Definition.* (1) "Subject to the EAR" is a term used in the EAR to describe those items and